



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

May 25, 1990
AO-90-17

Thomas J. Swift
Treasurer
Swift for State Senate Committee
8 Bank Row
Pittsfield, Massachusetts 01201

Dear Mr. Swift:

This letter is in response to your request for an advisory opinion concerning the application of certain provisions of M.G.L. c.55 to a public employee seeking elective office.

You have stated that Jane M. Swift is an employee of the Commonwealth, employed for compensation as an administrative aide to Senator Peter Webber. You have stated that a political committee has been formed on her behalf for her candidacy for the Massachusetts State Senate.

Section 13 of M.G.L. c.55 states, in part:

No person employed for compensation, other than an elected officer, by the commonwealth or any county, city, or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but this section shall not prevent such persons from being members of political organizations or committees. The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a person so employed for compensation by the

commonwealth or any county, city or town, shall not be deemed to be a direct or indirect solicitation or receipt of such contribution by such person; provided, however, that no such gift, payment, contribution, assessment, subscription or promise of money or other thing of value may be solicited or received on behalf of such a person from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has any interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility.

You have asked that we provide you with information pertaining to the application of M.G.L. c.55 to Ms. Swift's campaign finance activities.

It is the opinion of this office that Ms. Swift, as a person employed for compensation by the Commonwealth, is subject to the prohibitions against direct or indirect solicitation or receipt of monies contained in section 13 of M.G.L. c.55. The campaign finance committee established on her behalf may, however, solicit and receive contributions for her candidacy for the State Senate.

You have inquired whether section 13 would prohibit Ms. Swift's political committee from soliciting or receiving a contribution from a constituent. You have further inquired whether the committee may solicit or receive a contribution from a constituent having a general interest in any matter affected by legislative appropriation. (Please note that the prohibition would be on the solicitation or receipt of money by the political committee, rather than on the contribution or donation of funds by the constituent.) It is the opinion of this office that to the extent Ms. Swift's actions affect or have affected a particular constituent specifically, the political committee would be precluded from soliciting or receiving contributions from that constituent. For example, if Ms. Swift, as Senator Webber's aide, were closely following legislation of interest to a constituent, providing the constituent with updates or acting as a conduit for amendments to the legislation, it is the opinion of this office that soliciting or receiving contributions from such constituent would be prohibited. It is also the opinion of this office that a constituent would have to have more than a passing interest in a matter in which Ms. Swift was participating for the prohibition of section 13 to be invoked. We have included copies of several previous opinions issued by this office concerning a public employee's scope of employment (AO-82-01, AO-86-10, AO-88-16 and AO-88-22) for your information. Should you

have a more specific example on which you would like advice we would be happy to respond.

You should also be aware of the following provisions of the law:

Section 14 of M.G.L. c.55 states: "No person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for purposes set forth in section thirteen."

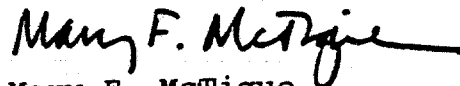
Section 16 of M.G.L. c.55 states: "No person in the public service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so."

Section 17 of M.G.L. c.55 states: "No officer or employee of the commonwealth or of any county, city or town shall discharge, promote, or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving, withholding or neglecting to make a contribution of money or other valuable thing for a political purpose."

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55. You may also wish to contact the State Ethics Commission for the application of the conflict of interest law to Ms. Swift's situation.

Please do not hesitate to contact this office should you have additional questions.

Very truly yours,



Mary F. McTigue
Director

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